

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested of the basis of the remarks and arguments set forth herebelow.

Rejection of Claim 42 Over Sawyer

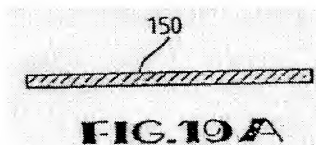
In the final Office Action, claim 42 was rejected as being anticipated by, or in the alternative, obvious over United States Patent No. 5,108,417 (Sawyer). Claim 42 has been canceled without prejudice to or disclaimer of the subject matter recited therein, thereby rendering the rejection moot.

Rejection of Claims 20-24, 28, 31, 32 and 36 over Summers in View of Schmaltz et al.

In the final Office Action, claims 20-24, 28, 31, 32 and 36 were rejected under 35 U.S.C. § 103(a) over United States Patent No. 6,080,191 (Summers) in view of United States Patent No. 5,449,372 (Schmaltz et al.). The Examiner admits in the Office Action (page 3, lines 2-5) that the transverse cross sectional configuration of Summers' stent as shown in Summers' Figure 19A does not disclose substantially curved left and right sides such that the transverse cross section is devoid of sharp corners. However, the Examiner contends that Schmaltz et al. teaches at col. 15, lines 54-59 that the sharp edges of a stent may be rounded off to prevent blood vessel damage.

However, independent claims 20 and 31 of the present application both recite more than just rounded corners. Each recites that the top and bottom sides are "joined together through a continuously curved left side and a continuously curved right side such that the transverse cross sectional configuration of the strut is devoid of sharp corners." Neither Summers, nor Schmaltz et al., discloses continuously curved left and right sides, as recited.

Summers Figure 19A (reproduced below) shows nothing more than a simple rectangular cross section.



Even if one were to round off the corners of this simple rectangular cross section, as suggested by the Examiner, such rounding of the corners would still would not result in “a continuously curved left side and a continuously curved right side” as required by independent claims 20 and 31 (and all claims depending therefrom). Instead, the right and left sides of the cross section would remain straight, with rounded corners at the intersections in the left and right sides and the top and bottom. In fact, Figure 10 of Schmaltz et al., reproduced below, shows just such a cross-section, wherein the corners have been rounded. As can be clearly seen, the left and right sides of Figure 10 of Schmaltz et al. are straight, not “continuously curved” as required by independent claims 20 and 31. Rounding the corners of Summers, as taught by Schmaltz et al., would result in the same configuration as Figure 10 of Schmaltz et al., that is, straight left and right sides.

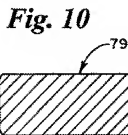


FIG. 10 of Schmaltz et al. showing rounded corners,
but straight left and right sides.

Recognizing that the Schmaltz et al. patent does not reconcile the deficiencies in Summers, the Examiner does not apply the teaching of Schmaltz et al. to round off the corners of Summers. Instead, the Examiner states that in view of Schmaltz, it “would have been obvious to round the left and right sides ... of Summers.” However, Schmaltz does not teach to round the

entire left and right sides, only the edges/corners. The Examiner leaps to the conclusion “that the Summers strut is so thin as compared to its width”, that “when following the Schmaltz et al. teaching, ... it would have been obvious to round the entire left and right sides (edges) of the Summers strut 150.” There is no support for such a conclusion. The drawings of patent applications are not to scale. Thus, the Examiner’s assertion that the Summers strut is so thin as compared to its width is not supported. Further, Schmaltz specifically teaches that the material that forms the stent is a “flat wire”, yet rounding off the edges of such a flat wire does not mean to make the entire left and right sides curved, as seen in FIG. 10 thereof.

Accordingly, even if combined, the combination of Summers and Schmaltz et al. does not yield the claimed invention. It is therefore respectfully requested that the rejection be withdrawn.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 543-0221.

Respectfully submitted,

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